

ESTATE OF RICHARD DODGE BEALE, DECEASED

OCTOBER 28 (legislative day, OCTOBER 25), 1943.—Ordered to be printed

Mr. EASTLAND, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 247]

The Committee on Claims, to whom was referred the bill (H. R. 247) for the relief of the estate of Richard Dodge Beale, deceased, having considered the same, report favorably thereon with amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Change the title of the bill to read:

A bill for the relief of the estate of Richard Dodge Beale, deceased.

The facts will be found fully set forth in House Report No. 626, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report, and your committee concur in the recommendations of the House.

[H. Rept. No. 626, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 247) for the relief of the estate of Richard Dodge Beale, deceased, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 5, after the word "to" strike out the language "Richard P. Beale and Eva M. Beale, of Pasadena, California, the sum of \$10,000. The payment of such sum shall be" and insert in lieu thereof the language "the estate of Richard Dodge Beale, deceased, the sum of \$5,542.87,".

Page 1, line 9, strike out the language "son of Richard P. Beale and Eva M. Beale,".

Page 2, line 1, strike out the words "two-and-one-half-ton".

The purpose of the proposed legislation is to pay to the estate of Richard Dodge Beale, deceased, the sum of \$5,542.87, in full settlement of all claims against the United States on account of the death of Richard Dodge Beale, who was fatally injured on December 2, 1941, when the automobile which he was driving on United States Highway No. 99, Ridge Route, Kern County, State of California, was struck by a United States Army 1½-ton truck, Chevrolet No. W328099.

STATEMENT OF FACTS

At about 5:15 p. m., on December 2, 1941, a 1½-ton Army cargo truck operated by an enlisted man, traveling in a convoy of Army vehicles, was proceeding in a northerly direction on United States Highway No. 99, at a point about 30 miles south of Bakersfield, Calif. The truck was heavily loaded and was drawing a lightly loaded two-wheel trailer without brake connections, which were not available for use with such trailers. As the truck, in high gear, rounded a downhill curve at a speed of about 45 miles per hour, the driver observed that the convoy vehicles ahead of him had suddenly slowed down, and that the nearest, which was loaded with poles extending several feet behind the rear end of the vehicle, was so close that he would be unable to stop his vehicle in time to avoid colliding with it. The road to the right was too narrow for the truck to pass the vehicle ahead of it and was bordered by a deep cut. The center lane of the three-lane road was partly blocked by a tank truck which was slowly ascending the hill from the opposite direction and which had been driven to its left in order to pass a power shovel occupying a part of the tank truck's right-hand lane. The driver applied his brakes and turned to his left in an attempt to pass between the vehicle preceding him and the oncoming tank truck, but the left rear wheel of his truck struck the left wheels of the tank truck, which contact broke the left rear spring shackles on his truck, drove the rear axle backward, pulled out the drive shaft, and caused the truck to go out of control. The truck swerved to the right, then back to the left, and struck a 1935 Graham coupe owned and operated by Richard Dodge Beale, 1090 Palm Terrace, Pasadena, Calif., which had been following at a distance of between 50 and 90 feet behind the tank truck, either in its proper lane, or turning into the center (passing) lane. Mr. Beale's car was forced against the guard rail and caught fire from the Army truck, the gasoline tank of which had been punctured by the loose drive shaft. The crash and ensuing fire resulted in the destruction of both vehicles and the death of Mr. Beale.

The deceased was 25 years of age at the time of his death, was not married, and was survived by his father, Richard P. Beale, age 56 years; his mother, Eva M. Beale, age 54 years; a sister, Betty Louise Beale, age 25 years; a sister, Carol Ann Beale, age 9 years; and his grandmother, Louise Beale, age 79 years. The gross income of the deceased appears to have been approximately \$425 per month, out of which he appears to have made contributions toward the support of the family, the amount of which is not definitely established by the available evidence.

In its report to your committee the War Department admits the Government's liability, stating in part:

"Since it appears that the death of Richard Dodge Beale resulted from the negligence of the Government driver, without fault or negligence on the part of the deceased, it would seem appropriate to compensate his parents, Richard P. Beale and Eva M. Beale, in a reasonable amount. Through his death they have been deprived not only of his contribution of supplies and services, valued by the elder Mr. Beale at approximately \$60 per month, but also of any future financial assistance which they might reasonably have anticipated from their son during their lifetime. However, it is understood that it would not be in accord with the program of the President to grant relief, in a case of this character, in excess of the sum of \$5,000 plus medical and hospital or burial expenses. Therefore, it is recommended that the bill be amended to provide for payment of the sum of \$5,542.87 (\$5,000 for death, \$434.63 for funeral expenses, and \$108.24 for burial niche) and the War Department favors the enactment of the bill in that form."

Your committee have thoroughly considered the matter and are of the opinion that \$5,542.87, as recommended by the War Department, would be a reasonable award in this case, and, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department, together with other pertinent evidence, all of which is made a part of this report.

WAR DEPARTMENT,
Washington, D. C., May 17, 1943.

Hon. DAN R. McGEHEE,

Chairman, Committee on Claims, House of Representatives.

DEAR MR. McGEHEE: The War Department is opposed to the enactment of H. R. 247, Seventy-eighth Congress, in its present form. This bill would authorize the Secretary of the Treasury to pay to Richard P. Beale and Eva M. Beale,

of Pasadena, Calif., the sum of \$10,000 in full settlement of all claims against the United States on account of the death of Richard Dodge Beale, son of Richard P. Beale and Eva M. Beale, who was fatally injured on December 2, 1941, when the automobile he was driving on United States Highway No. 99, Ridge Route, Kern County, Calif., was struck by a United States Army truck. However, the Department would favor the enactment of the bill if so amended as to provide for payment of the sum of \$5,542.87 only.

At about 5:15 p. m., on the mentioned date, a 1½-ton Army cargo truck operated by an enlisted man, traveling in a convoy of Army vehicles, was proceeding in a northerly direction on U. S. Highway 99, at a point about 30 miles south of Bakersfield, Calif. The truck was heavily loaded and was drawing a lightly loaded two-wheel trailer without brake connections, which were not available for use with such trailers. As the truck, in high gear, rounded a downhill curve at a speed of about 45 miles per hour, the driver observed that the convoy vehicles ahead of him had suddenly slowed down, and that the nearest, which was loaded with poles extending several feet behind the rear end of the vehicle, was so close that he would be unable to stop his vehicle in time to avoid colliding with it. The road to the right was too narrow for the truck to pass the vehicle ahead of it and was bordered by a deep cut. The center lane of the three-lane road was partly blocked by a tank truck which was slowly ascending the hill from the opposite direction and which had been driven to its left in order to pass a power shovel occupying a part of the tank truck's right-hand lane. The driver applied his brakes and turned to his left in an attempt to pass between the vehicle preceding his and the oncoming tank truck, but the left rear wheel of his truck struck the left wheels of the tank truck, which contact broke the left rear spring shackles on his truck, drove the rear axle backward, pulled out the drive shaft, and caused the truck to go out of control. The truck swerved to the right, then back to the left, and struck a 1935 Graham coupe owned and operated by Richard Dodge Beale, 1090 Palm Terrace, Pasadena, Calif., which had been following at a distance of between 50 and 90 feet behind the tank truck, either in its proper lane, or turning into the center (passing) lane. Mr. Beale's car was forced against the guardrail and caught fire from the Army truck, the gasoline tank of which had been punctured by the loose drive shaft. The crash and ensuing fire resulted in the destruction of both vehicles and the death of Mr. Beale.

The Government driver testified at the coroner's court at Kern County, Calif., on December 4, 1941, that Mr. Beale had turned into the center lane of the highway with the intention of passing the tank truck he was following, and a member of the California Highway Patrol, who reached the scene about 12 minutes after the accident occurred, stated that marks on the highway established the point of impact at about 2 feet west of the white line separating the center lane from the east lane, that is, wholly within the center lane. However, two apparently disinterested eyewitnesses, one of them a flagman controlling traffic behind the power shovel, stated that the Graham coupe when struck was proceeding in its proper lane on the right-hand side of the road.

Claims were filed with the War Department by Richard P. Beale, father of Richard Dodge Beale, in the amount of \$150 (\$145, value of automobile, less \$10, salvage; \$5 loss of blanket; and \$10, currency lost), \$10,000 for the death of his son, Richard Dodge Beale, \$434.63 for funeral expenses, and \$108.24 for a burial niche, supported by receipted bills of the Flickinger-Digier Chapel, Bakersfield, for funeral expenses, and the Pasadena Mausoleum Corporation, Ltd., Pasadena, for the niche.

The claim for property damage was approved in the amount of \$140 under the provisions of the act of December 28, 1922 (42 Stat. 1066; 31 U. S. C. 215-217), upon the basis that the proximate cause of the accident was the negligence of the Government driver in proceeding around a curve at too high a speed either to allow him to stop within his assured clear distance ahead, or to maintain clearance and avoid striking the preceding Government vehicle. The item of the claim for the death of Richard Dodge Beale and funeral expenses was necessarily disapproved, since there is no law or appropriation available to the War Department for the administrative settlement of claims of this nature.

A claim in the amount of \$177.70 filed with the War Department by the Malco Transportation Co., Los Angeles, Calif., owner of the tank truck involved in the accident, was approved in that amount for settlement under the provisions of the act of December 28, 1922, *supra*.

It appears that the deceased was 25 years of age at the time of his death, was not married, and was survived by his father, Richard P. Beale, age 56 years; his mother, Eva M. Beale, age 54 years; a sister, Betty Louise Beale, age 25 years;

a sister, Carol Ann Beale, age 9 years; and his grandmother, Louise Beale, age 79 years. It also appears that the gross income of the deceased was approximately \$425 per month; that he made nominal contributions toward the support of the family, the amount of which is not definitely established by the available evidence; that his sister, Betty Louise Beale, had been employed during the preceding 3 years, was earning approximately \$100 per month, and contributes to the support of the family; that his father, Richard P. Beale, received a salary of \$150 a month plus a commission averaging from \$50 to \$100 a month, out of which income he is required to furnish his car and pay his traveling expenses; that the house owned by the father is worth about \$8,500 but is encumbered to the extent of \$3,300; and that the family was supported by the father's earnings and by the contributions referred to.

Since it appears that the death of Richard Dodge Beale resulted from the negligence of the Government driver, without fault or negligence on the part of the deceased, it would seem appropriate to compensate his parents, Richard P. Beale and Eva M. Beale, in a reasonable amount. Through his death they have been deprived not only of his contribution of supplies and services, valued by the elder Mr. Beale at approximately \$60 a month, but also of any future financial assistance which they might reasonably have anticipated from their son during their lifetime. However, it is understood that it would not be in accord with the program of the President to grant relief, in a case of this character, in excess of the sum of \$5,000, plus medical and hospital or burial expenses. Therefore, it is recommended that the bill be amended to provide for payment of the sum of \$5,542.87 (\$5,000 for death, \$434.63 for funeral expenses, and \$108.24 for burial niche) and the War Department favors the enactment of the bill in that form.

The fiscal effect of the bill is manifest.

The Bureau of the Budget advises that there is no objection to the submission of the proposed report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

VERDICT OF CORONER

STATE OF CALIFORNIA,

County of Kern, ss:

In the matter of the investigation upon the body of Richard Dodge Beale deceased, before N. C. Houze, coroner of Kern County, at Bakersfield, Calif., on the 3d day of December A. D. 1941, to inquire into the cause of the death of a man, having made such inquisition, and after inspecting the body and hearing the testimony adduced, find that the deceased was named Richard Dodge Beale, a male, a native of Washington, aged about 25 years, and that he came to his death on the 2d day of December 1941 by third-degree burns over the head, arms, and legs sustained when the automobile which he was driving was involved in a collision with another motor vehicle at a point about one-half mile south of Grapevine. Accidental.

All of which I duly certify by this inquisition in writing, by me signed this 4th day of December 1941.

N. C. HOUZE, *Coroner.*

I hereby certify that the above is a full, true, and correct copy of the original verdict of coroner.

N. C. HOUZE.

Subscribed and sworn to before me this 19th day of May 1942.

[SEAL]

EDNA MURPHY,
Notary Public in and for the County of Kern, State of California.

